



Jammu and Kashmir State Information Commission
(Constituted under The Right to Information Act, 2009)
Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937
Old Assembly Complex, Srinagar, 0194-2506660, 2506661
www.jksic.nic.in

File No. SIC/K/SA/20/2017
Case No. SIC/K/SA/20/2017/12

FINAL ORDER

Appellant : Sh. Muhammad Ali Jinnah.
Respondents : First Appellate Authority (FAA) O/o
Deputy Commissioner, Kargil,
Public Information Officer (PIO)/
Chief Planning Officer Kargil.
Date of decision : 06.06.2017
Decision : Appeal rejected

I. Brief facts of the case.

The brief facts of the case are that the appellant Sh. Muhammad Ali Jinnah filed 2nd appeal before the Commission on 12.04.2017 against Deputy Commissioner Kargil-cum-First Appellate Authority (FAA) and Public Information Officer (PIO)/ Chief Planning Officer, Kargil. The appellant has stated that PIO has failed to provide him the information sought vide application dated 31.10.2016 within the stipulated time. Thereafter, he received a letter from Chief Planning Officer, Kargil for fee remittance on 06.12.2016 after lapse

of 30 days. However, on 15.12.2016 he filed the first appeal before FAA on the ground that PIO had asked him to deposit Xerox charges after lapse of 30 days time. That he could not attend the office of FAA on 31.01.2017 in response to FAA's communication due to personal reasons and vide letter dated 03.02.2017 complained before FAA that PIO had failed to provide him information free of cost even after lapse of stipulated period. The appellant has requested the Commission to impose penalty on the respondents with direction to provide the requisite information without further delay.

As per records of the 2nd appeal the appellant vide RTI application dated 31.10.2016 has sought information from PIO/CPO, Kargil on five items of information namely, authentic copies of minutes of the Board meeting for the year 2016-17, amount of district fund, State Fund and Central Fund distributed to every department under different schemes, total amount sanctioned for district Kargil under AMRUT Scheme and other related information. Chief Planning Officer, Kargil vide letter dated 28.11.2016 informed the appellant to deposit Rs. 334/- as Photostat charges for 172 pages on any working day and collect the information. Thereafter, the appellant filed first appeal dated 07.12.2016 before FAA/DC, Kargil through post on 15.12.2016 on the ground that the letter for Xerox charges was received by him after 30 days and therefore he is entitled to receive the information free of cost. DC, Kargil/FAA vide letter dated 21.01.2017 informed the appellant as well as PIO to attend his office on 31.01.2017 at 11.00 AM for disposal of the first appeal. The appellant did not attend the office of FAA instead filed the 2nd appeal before State Information Commission on 12.04.2017 submitting

therein that he could not attend the office of FAA due to personal reasons.

II. Proceedings before The Commission.

The 2nd appeal was listed for hearing before the Commission on 06.06.2017. Sh. Padma Londup Chief Planning Officer/PIO and Sh. Muhammad Ali Jinnah, appellant attended the hearing. During hearing the PIO submitted that the appellant was informed within stipulated time to deposit Photostat charges of Rs. 344/- for 172 pages of information. The appellant submitted that the letter through which he was informed to deposit the Photostat charges has been received by him after 30 days and accordingly PIO had to provide him the requisite information free of cost.

The Chief Planning Officer/PIO submitted copy of reply/counterstatement dated 03.06.2017 from DC, Kargil/FAA. The FAA in his reply has interalia submitted that First Appeal of the appellant dated 07.12.2016 was received by him on 19.12.2016 and accordingly vide letter dated 20.12.2016, the appellant was required to appear before him on 29.12.2016. The appellant failed to appear before him for unknown reasons, however filed complaint dated 28.12.2016 alleging that PIO had failed to provide him requisite information within the stipulated time. Thereafter the PIO and appellant were again informed to appear before FAA on 31.01.2017, but again the appellant failed to appear before him and filed another complaint received in the office of FAA on 06.02.2017. The FAA has

further submitted that his dealing assistant had a telephonic conversation with the appellant and requested him to appear before FAA, but the appellant intimated that he has already submitted 2nd appeal before the State Information Commission.

III. Decision:-

All documents with the 2nd appeal were perused. From the records it is clear that in response to RTI application of the appellant dated 31.10.2016, PIO vide letter dated 28.11.2016 has intimated him within the stipulated time to deposit Photostat charges of the copies of information. The contention of the appellant that he received the said letter on 06.12.2016 after 30 days time is immaterial because the said letter has been issued before the expiry of the time period of 30 days from the date of receipt of the RTI application which is what is mentioned. Any delay in depositing the Photostat charges is attributed to the applicant. This is clearly stated in Section 7(3) (a) of the J&K RTI Act, 2009. The applicant seems to be unaware of this provision and has therefore erred in assuming that the PIO had delayed giving information beyond 30 days. Without depositing the prescribed Photostat charges the appellant approached FAA by way of first appeal dated 07.12.2016 received by FAA on 19.12.2016. The FAA dutifully informed the appellant to appear before him initially on 29.12.2016 and secondly on 31.01.2017 for hearing of the first appeal. The appellant failed to appear before the FAA/ DC Kargil for reasons best known to him (personal reasons) instead made written communications/ complaints against the PIO.

Since the FAA had informed the appellant within the stipulated time as provided under Section 16(7) of J&K RTI Act 2009 to appear before him for disposal of the first appeal, the appellant has avoided to attend the office of FAA on each occasion and instead approached the Commission with the 2nd appeal. It is clear from the records that the appellant neither cooperated with the PIO nor with the FAA with the result he could not obtain the information that he had sought and which was not being denied either by the PIO or by the FAA. It appears that the appellant did not want to meet either the PIO/CPO, Kargil or the FAA/DC, Kargil and instead was more keen to come to the 2nd appeal in the SIC.

The facts and details about the original RTI application / the First Appeal filed by the appellant Sh. Mohammad Ali Jinah clearly indicate that the appellant has either misinterpreted the law (RTI Act) or not cooperated with the prescribed authorities who seem to have made adequate efforts to provide information to him.

For the reasons that the appellant has not cooperated either with the PIO/ Chief Planning Officer, Kargil in depositing the Photostat charges which was a meager amount or with the FAA/DC Kargil who offered him a hearing on two occasions as mentioned above, this appeal holds no merit and is therefore rejected in terms of Section 16(9)(d) of the J&K RTI 2009.

(Khurshid A. Ganai)IASRetd.,
Chief Information Commissioner.

No. SIC/K/SA/20/2017

Dated : .06.2017

Copy to the:-

1. First Appellate Authority office of Deputy Commissioner, Kargil.
2. Chief Planning Officer/ Public Information Officer Kargil.
3. Sh. Sh. Muhammad Ali Jinnah S/O Muhammad Issa R/O Kargee
Taisuru, Kargil.
4. Guard File.

(Sheikh Fayaz Ahmad)
Registrar,
J&K State Information Commission.